IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

WP(C).No. 31966 of 2007(E)

PETITIONER:

SOORAJ KUMAR,
LAKSHMI NIVAS, NADUVILE VILLAGE, VAIKOM TALUK, DIST. KOTTAYAM, REPRESENTED BY HIS POWER OF ATTORNEY HOLDER, K.G. MANIKANTAN NAIR.

BY ADV. SRI. K. REGHU KOTTAPPURAM

RESPONDENTS:

---

1. **THE TAHSILDAR (R.R),**
   VAIKOM TALUK, VAIKOM, DIST. KOTTAYAM.

2. **THE REVENUE DIVISIONAL OFFICER (RDO),**
   PALA, DIST. KOTTAYAM.

3. **THE SECRETARY TO GOVERNMENT,**
   REVENUE DEPARTMENT, STATE OF KERALA,
   THIRUVANANTHAPURAM.

   BY GOVERNMENT PLEADER SRI. MATHEW VADAKKEL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

WP(C) No. 31966 of 2007

Dated, this the 26th day of October, 2007

J U D G M E N T

In enforcement of a demand for recovery of abkari arrears due from the petitioner and his co-licensees, properties belonging to the petitioner was brought to sale on 29/06/2004 pursuant to Ext.P2. Apparently, on account of absence of bidders, the State purchased the property for Rs. 1/- under Section 50 of the RR Act. The proceedings in this regard was challenged by the petitioner in writ petition No. 26262/2004. The said writ petition came to be dismissed for default on 28/02/2006. Apparently, the learned counsel came to know about it later and he, therefore, has filed Ext.P7 MJC to restore the writ petition to file.

2. In the meanwhile, vide Ext.P5 notice, the petitioner has been asked to vacate the buildings in the property and in these circumstances, the petitioner has approached this Court.

3. In my view, dispossession as contemplated by Ext.P5 is only a consequence of the confirmation of the sale, by which the Government had purchased the property under Section 50 of the Act. In the circumstances, the remedy of the petitioner is to prosecute writ petition No. 26262/2004, wherein he has admittedly

challenged the sale of the property. But in the peculiar facts and circumstances of the case, since there could be delay in the consideration of the petition for restoration of the writ petition to file, it might be necessary to give the petitioner some time to prosecute his remedy.

4. After having heard the learned counsel for the petitioner and the learned Government Pleader, this writ petition is disposed of directing the 1st respondent to keep in abeyance the dispossession of the petitioner pursuant to Ext.P5 for a period of one month from today. In the meanwhile, it is open to the petitioner to prosecute his remedy in writ petition No. 26262/2004. All the contentions of the petitioner are left open.

This writ petition is disposed of as above.

Sd/-

(V.GIRI, JUDGE.)

jg

// TRUE COPY //

PA TO JUDGE.